

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Laisheng Liu
Serial No. : 10/573,099
Filing or 371(c) date: : March 22, 2006
For : Electrical Depilator
Examiner : David C. Eastwood
Group Art Unit : 4185
Docket No. : 1124970-0018

I hereby certify that this paper is being transmitted via the Electronic Filing System to the U.S. Patent and Trademark Office on the date indicated below.
/Andrew Fessak/ January 9, 2009
Signature Date

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR WITHDRAWAL OF
DEFECTIVE OFFICE ACTION**

Sir:

Applicant requests that the PTO vacate the Office Action dated October 28, 2008 in the referenced application due to error on the part of the Office. This paper is being filed before the end of the 3-month shortened statutory period for reply to the Office Action.

On December 28, 2007, Applicant electronically filed an Information Disclosure Statement (“IDS”) in the application and provided copies of the non-US references cited in the IDS.

On October 28, 2008, the Office issued a first Office Action in the application. Upon review of the Office Action, Applicant determined that the PTO replaced Applicant’s originally-

filed specification, claims, and drawings with one of the documents which was disclosed in the IDS.

Specifically, it appears that the Office mis-indexed WO 02/052976 in the instant application's image file wrapper ("IFW") as replacement specification, claims, and drawings for the instant application, and that this publication was examined in place of Applicant's application. In other words, the PTO identified one of the disclosed documents from the IDS, WO 02/052976, as replacement application parts in the instant application, and the Examiner essentially examined WO 02/052976 rather than Applicant's application. This action is contrary to Applicant's clear intention in the IDS of disclosing documents for the Examiner's review, and Applicant did not file any amendments requesting entry of replacement application parts.

The error regarding the application parts is also reproduced in the published application, US 2008/0195118. Although the bibliographic information and Abstract appearing on the face of US 2008/0195118 appear to be correct, the specification, claims, and drawings of the published application are drawn from WO 02/052976, rather than Applicant's original application filed on March 22, 2006.

As the Office Action is defective due to error on the part of the PTO, Applicant requests that the Office vacate the Office Action mailed on October 28, 2008, correct the entries in the application's IFW, and issue a superseding Action. Applicant also requests prompt notification that the Office Action has been vacated to avoid Applicant's loss of any patent term extension that may be due.

As a precaution to prevent abandonment of the instant application, in the event that the Office does not vacate the defective Office Action before the expiration of the response period, Applicant requests that this paper be considered a response to the Action and authorizes the Commissioner to charge any fees due to Deposit Account No. 23-1703. Nevertheless, as there was no defect in Applicant's earlier submissions, Applicant requests that any such fees paid be refunded.

Please contact the undersigned Agent with any questions.

Dated: January 9, 2009

Respectfully submitted,

/Andrew Fessak/
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